

United States District Court

MIDDLE

DISTRICT OF

ALABAMA

UNITED STATES OF AMERICA

v.

TAWAINE MCCULLOUGH

CRIMINAL COMPLAINT

CASE NUMBER: 2:08mj13-SRW

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about February 22, 2008, in Montgomery County and elsewhere within the Middle District of Alabama defendant,

having previously been convicted of a felony offense did knowingly possess in or affecting commerce a firearm; all in violation of Title 18 United States Code, Section(s) 922(g)(1).

I further state that I am a(n) ATF Special Agent and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT WHICH IS INCORPORATED BY REFERENCE

Continued on the attached sheet and made a part hereof: Yes No


Signature of Complainant

Sworn to before me and subscribed in my presence,

FEBRUARY 24, 2008

Date

at Montgomery, Alabama

City and State

SUSAN RUSS WALKER, U. S. Magistrate Judge
Name & Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

I, the undersigned affiant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. My name is Theron T. Jackson. I am a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). I am presently assigned to the Montgomery, Alabama, Field Office. The Montgomery Field Office is one of several ATF offices supervised by the Nashville Field Division, which encompasses Alabama and Tennessee. The Montgomery Field Office's area of operation is the Middle Federal Judicial District of Alabama.

In 1992 I received a Bachelor of Arts (B.A.) Degree from the University of Virginia in Charlottesville, Va. My major area of study was Sociology. In 1995 I received a Juris Doctor (J.D.) Degree from the University of Richmond Law School in Richmond, Va., and in 1997 I was awarded the degree of Master of Laws (LL.M.) from the University of Wisconsin - Madison. I am a graduate of the Federal Law Enforcement Training Center and a distinguished graduate of the ATF National Academy. I have been a Special Agent with ATF since October 1999.

In addition, I respectfully submit the following with respect to my training and areas of specialization:

1. That I have attended the Firearms Interstate Nexus Training Course conducted by the ATF Firearms Technology Branch in Washington, D.C, during which I personally examined the ATF Firearms Technology Branch's Reference Collection, which includes approximately five thousand (5,000) types of firearms. I also maintain a library of books and other printed materials related to the field of firearms.
2. That I am a Digital Investigator with the Bureau of Alcohol, Tobacco and Firearms' Computer Forensics branch, and a computer examiner certified by the International Society of Forensic Computer Examiners.
3. That I am a state-certified law enforcement instructor, and have provided formal training to local law enforcement officers in various aspects of firearms and ammunition.
4. That my education and expertise relative to various aspects of firearms and ammunition has been requested and/or recognized by the following agencies and/or entities: Bureau of Alcohol, Tobacco, Firearms and Explosives, United States Attorney's Office for the Middle District of AL, Federal Bureau of Investigation, Immigration and Customs Enforcement (ICE), Drug Enforcement Administration, United States Army CID, High Intensity Drug Trafficking Activity (HIDTA) Task Force for the Middle District of Alabama, Alabama Alcohol Beverage Control Board, and the Montgomery, AL Police Department.

On or about February 23, 2008, I was contacted by Lt. Keith Barnett and Detective A.D. Payne of the Montgomery, AL Police Department Office regarding possible violations of federal firearms laws committed by Tawaine McCullough. According to the information provided by Detective Payne, on the evening of February 22, 2008, Officer Maddox and Corporals Russell, Allen, and Sims of the Montgomery Police Department were travelling in the Ridgecrest area of Montgomery attempting to locate the user of credit cards which were previously reported stolen. During the course of their search, the officers observed a silver Mercury Grand Marquis travelling at a high rate of speed along East Woodland Drive. Given their determination that the vehicle was speeding, the officers attempted to initiate a traffic stop. The Mercury Grand Marquis then attempted to elude the officers, and during the course of the ensuing pursuit, the Grand Marquis was involved in a collision with a brick barrier. The driver of the Grand Marquis exited the vehicle at this point, and fled along Woodland drive on foot. The MPD officers engaged the driver in a brief foot pursuit, during which Corporal Russell observed the driver draw a firearm from his waistband and toss it in front of 54 Davis Drive. Corporal Russell retrieved the firearm (a Taurus, Model Millennium Pro PT 145, .45 Caliber Pistol, Serial Number NWB38056, previously reported stolen from a residence in the city of Montgomery in April, 2007), and the remaining MPD officers apprehended the driver, identified as Tawaine McCullough. Lt. Barnett, having had prior dealings with McCullough, recalled that McCullough was a previously convicted felon, and referred this matter to ATF for further action. A criminal history check conducted by MPD at my request supports Lt. Barnett's recollection. McCullough was convicted of two counts of Robbery First Degree in Montgomery County Circuit Court in 2001. Robbery First Degree is a felony offense

punishable by imprisonment for a term exceeding one year under the laws of the State of Alabama. Given my training and experience in the area of firearms interstate nexus, I am aware that the Taurus firearm involved in this matter was manufactured in Brazil, and thus moved in interstate and foreign commerce.

Given the observations of MPD Corporal Russell involved in the foot pursuit, the results of the criminal history check conducted for McCullough, and my assessment with respect to the point of manufacture of the firearm involved in this matter, I believe that probable cause exists that McCullough's actions may constitute a violation of Title 18, United States Code Sections 922 (g) (1). In light of the foregoing, I respectfully request that an arrest warrant be issued for Tawaine McCullough.



Special Agent, ATF

Approved by Assistant U.S. Attorney Madeline W. Sheehan

Sworn to and subscribed by me this 21st day of February, 2008



U.S. MAGISTRATE/DISTRICT JUDGE